

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF RHODE ISLAND

BARBARA RICCI

Plaintiff

C.A. NO.

vs.

KIN, INC, alias KOHL'S DEPARTMENT
STORES, INC., alias, KOHL'S INC., alias,
KOHL'S INC., alias, KOHLS OF
ILLINOIS, alias, and DOE 1 THRU 4,
INCLUSIVE

Defendants

DEFENDANTS' NOTICE OF REMOVAL

Pursuant to 28 U.S.C. § 1446(a) and Local Rule Cv 81, the defendants, KIN, Inc., Kohl's Department Stores, Inc., Kohl's, Inc., and Kohls of Illinois (misnamed) (collectively, "the Kohl's Defendants"), hereby give notice of their removal of this action from the Providence/Bristol County Superior Court of Rhode Island to the United States District Court for the District of Rhode Island. In support of this Notice, the Kohl's Defendants respectfully state as follows:

BACKGROUND

1. By Summons and Complaint, plaintiff Barbara Ricci ("Ms. Ricci" or "Plaintiff") commenced a civil action against the Kohl's Defendants in Providence/Bristol County Superior Court entitled Barbara Ricci v. KIN, Inc., alias Kohl's Department Stores, Inc., alias, Kohl's Inc., alias, Kohl's Inc., alias, Kohls Of Illinois, alias, and Doe 1 Thru 4, Inclusive, C.A. No. PC-2020-06487 ("the Superior Court Action"). True and complete copies of the Summons and Complaint that the Plaintiff caused to be served upon the Kohl's Defendants are attached as **Exhibit A.**

2. Defendants were served with the Summons and Complaint in the Superior Court action on October 19, 2020 and filed their answer on December 21, 2020. The instant Notice of Removal is being filed within 30 days of the date of the Kohl's Defendants' Answers, as it became apparent that removal was appropriate in accordance with 28 U.S.C. § 1446(b)(3).

3. This removal is timely under 28 U.S.C. § 1446(c) despite Plaintiff naming purported non-diverse defendants– the “Does” doing business in Providence. See Exhibit A, ¶ 2-6. There is no reasonable possibility that the state's highest court would find that the Complaint stated a cause of action upon which relief may be granted against the individual “Doe” defendants. Universal Truck & Equip. Co. v. Southworth-Milton, Inc., 765 F.3d 103, 108 (1st Cir. 2014).

4. A Notice of Filing of Notice of Removal shall be promptly filed by the defendants with the Providence County Superior Court. 28 U.S.C. § 1446(d).

5. The Superior Court Action is a suit of a wholly civil nature brought in the Superior Court of the State of Rhode Island, in and for Providence County. The United States District Court for the District of Rhode Island is therefore the proper forum and venue to which this action may be removed under the provisions of 28 U.S.C. §§ 101 and 1441(a).

6. This Court has original jurisdiction to entertain this action because the only parties to this case are citizens of different states and because the plaintiff claims that her potential damages exceed the sum of \$75,000, exclusive of interest and costs. 28 U.S.C., §§ 1332(a)(1), 1441(a). Removal of this action is not prohibited by 28 U.S.C. § 1445.

7. With respect to the amount in controversy, the plaintiff has made a demand for “policy limits,” which amount to \$1,750,000.

8. With respect to diversity of citizenship, the plaintiff is a resident of North Providence, Rhode Island, County of Providence.

9. Defendant KIN, Inc., is a Wisconsin corporation having its principal place of business in Menomonee Falls, Wisconsin, County of Waukesha.

10. Defendant Kohl's, Inc., is Wisconsin corporation having its principal place of business in Menomonee Falls, Wisconsin, County of Waukesha.

11. Defendant Kohl's Department Stores, Inc., is Wisconsin corporation having its principal place of business in Menomonee Falls, Wisconsin, County of Waukesha.

12. Defendant Kohls of Illinois (misnamed) is Wisconsin corporation having its principal place of business in Menomonee Falls, Wisconsin, County of Waukesha.

13. This Notice of Removal is being filed in the District of Rhode Island, the District Court of the United States for the district and division within which the Superior Court action is pending.
28 U.S.C. § 1446(a).

WHEREFORE, Defendants respectfully request that the Superior Court action be removed and herein proceed in the United States District Court for the District of Rhode Island.

The Defendants,
KIN Inc., Kohl's Department Stores, Inc.,
Kohl's, Inc., and Kohls of Illinois
(misnamed),

By Their Attorneys,

/s/ Amy B. Yarbro

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CERTIFICATE OF SERVICE

I hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non-registered participants, as listed below, on January 20, 2021.

Wayne G. Resmini, Esq.
Resmini Law LLC
1022 Reservoir Avenue
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/s/ Amy B. Yarbrow